

DECISION



15485 *Kleman* *PLI*
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-200372

DATE: November 18, 1980

MATTER OF: Gilbert Construction Company

[Authorization for Payment on Quantum Meruit Basis]
DIGEST:

Although no contract existed between protester and National Park Service, payment may be made on quantum meruit basis since Park Service has received benefit and unauthorized work has been implicitly ratified.

The Pacific Northwest Region of the National Park Service (Park Service) requests a decision on whether it may certify a \$3,500 payment to Gilbert Construction Company (Gilbert), a/k/a/ G&J Joint Ventures.

On September 27, 1974, a Park Service concessionaire, Howard W. Bradley (Bradley), pursuant to its concession contract, contracted with Gilbert to construct a restaurant at the Diablo Lake Resort, Rockport, Washington. The total estimated contract price was \$197,575.23. However, certain work to be done outside the restaurant, such as clearing and grading the site and constructing the parking lots, worth \$28,952, was specifically excluded from the contract. Therefore, the final contract price was \$168,623. Gilbert apparently was informed by Bradley that the Park Service would sign a separate contract for the work specifically excluded from its (Gilbert's) contract with Bradley. Gilbert never received a contract for this work from the Government, but the work was done.

Gilbert claims it spent \$5,000 between October 1 through October 11, 1974, on the excluded items. The superintendent claims no work was begun before October 9, 1974. The Park Service has determined that only \$3,500 of the work is compatible with the final plans and design which the Park Service required. Gilbert has agreed to accept such an amount for its work.

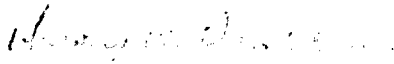
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Since no contract between Gilbert and the United States existed, Gilbert would have to recover on a quantum meruit basis. In that connection, we have stated:

"Where services are furnished to the Government without proper authorization, our Office has recognized that in appropriate circumstances payment may be made on a quantum meruit basis (the reasonable value of work or labor). Before a right to such payment may be recognized it must be shown that the Government has received a benefit, and that the unauthorized action has been expressly or impliedly ratified by an authorized contracting official of the Government. See Molitar and Grayson, B-188454, January 15, 1979, 79-1 CPD 18; Dictamatic Corporation, B-181038, May 11, 1974, 74-1 CPD 260."

The contracting officer has stated that the Park Service received a \$3,500 benefit resulting from Gilbert's work. Therefore, he has impliedly ratified unauthorized work and the amount thereof.

Accordingly, payment on a quantum meruit basis for \$3,500 may be allowed if otherwise proper and correct.


Milton J. Socolar
General Counsel